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Board of Vocational Nursing  
and Psychiatric Technicians

8 **BEFORE THE**  
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation/Petition to  
12 Revoke Probation Against:

13 **DERRICK GLENN BRACY**  
14 **355 Parkview Terrace, #K5**  
15 **Vallejo, CA 94590**

16 **Psychiatric Technician No. PT 26103**

Respondent.

Case No. PT-2005-54

**ACCUSATION AND PETITION TO**  
**REVOKE PROBATION**

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation and  
21 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board  
22 of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

23 2. On or about November 2, 1988, the Board of Vocational Nursing and Psychiatric  
24 Technicians issued Psychiatric Technician Number PT 26103 to Derrick Glenn Bracy  
25 (Respondent). The Psychiatric Technician License was in full force and effect at all times  
26 relevant to the charges brought in the Accusation and Petition to Revoke Probation and will  
27 expire on June 30, 2011, unless renewed.

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1 belief that there was a conscious disregard or indifference for the health, safety, or welfare of the  
2 consumer shall be considered a substantial departure from the above standard care."

3 8. Title 16, California Code of Regulations, section 2577.1, states:

4 "As set forth in Section 4521 of the code, incompetence is deemed unprofessional conduct  
5 and is grounds for disciplinary action. As used in Section 4521, 'incompetence' means the lack of  
6 possession of and the failure to exercise that degree of learning, skill, care and experience  
7 ordinarily possessed and exercised by responsible licensed psychiatric technicians."

#### 8 COST RECOVERY

9 9. Section 125.3 of the Code provides, in pertinent part, that a Board may request the  
10 administrative law judge to direct a licensee found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

#### 13 FIRST CAUSE FOR DISCIPLINARY ACTION

14 (Unprofessional Conduct)  
(Bus. & Prof. Code § 4521(a))

15 10. Respondent is subject to disciplinary action under section 4521(a) of the Code on the  
16 grounds of unprofessional conduct as defined by Code section 4521(a)(1) (incompetence or gross  
17 negligence in carrying out usual psychiatric technician functions) and Title 16, California Code of  
18 Regulations, sections 2577 (gross negligence) and 2577.1 (incompetence), by engaging in the  
19 following conduct:

20 10a. On or about September 23, 2009, while on duty and assigned as Acting Shift Lead  
21 Psychiatric Technician at Napa State Hospital (NSH), Respondent assigned two (2) employees to  
22 escort a group of eight (8) patients to a NSH off-unit. Respondent failed to review the patient  
23 medical records prior to approving the activity. Respondent failed to provide adequate  
24 supervision to the two employees he assigned to escort the eight NSH patients. Respondent also  
25 failed to ensure that those providing supervision were aware of the policies and procedures for  
26 escorting NSH patients. Consequentially, a patient left the facility without authorization for a  
27 period of three (3) days, which placed both the patient and the public in danger of harm.

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1 DISCIPLINARY CONSIDERATIONS

2 11. In a disciplinary action entitled "In the Matter of Accusation Against: Derrick Glenn  
3 Bracy," Case No. PT-2005-54, the Board of Vocational Nursing and Psychiatric Technicians,  
4 issued a decision, effective April 24, 2008, in which Respondent's Psychiatric Technician was  
5 revoked. However, the revocation was stayed and Respondent was placed on probation for a  
6 period of five (5) years with certain terms and conditions. A copy of that decision is attached as  
7 Exhibit A and is incorporated by reference.

8 PETITION TO REVOKE PROBATION

9 FIRST CAUSE TO REVOKE PROBATION

10 (Obey all Laws)

11 12. The allegations of Paragraph 11 are hereby realleged and incorporated by reference as  
12 though fully set forth.

13 13. At all times after the effective date of Respondent's probation, Condition 1 stated:  
14 "Obey All Laws - Respondent shall obey all federal, state and local laws, including all  
15 statutes and regulations governing the license. Respondent shall submit, in writing, a full and  
16 detailed account of any and all violations of the laws to the board within five days of occurrence.  
17 To ensure compliance with this term, respondent shall submit two completed fingerprint cards  
18 and the applicable fingerprint processing fees to the board within 30 days of the effective date of  
19 the decision, unless the board determines that fingerprint cards were already submitted by  
20 respondent as part of his licensure application process effective July 1, 1996. Respondent shall  
21 also submit a recent 2" x 2" photograph of himself within 30 days of the effective date of the  
22 decision."

23 14. Respondent's probation is subject to revocation because he failed to comply with  
24 probation Condition 1. Specifically, Respondent failed to notify the Board within five days of  
25 occurrence, as set forth above in Paragraph 10a. The incident occurred on September 23, 2009,  
26 and Respondent did not notify the Board until July 9, 2010, which was 284 days past due. In  
27 addition, Respondent failed to submit a recent photograph of himself within 30 days of the  
28 Board's decision. After two written requests dated June 25, 2008, and August 6, 2008,

Respondent's photograph was received on August 18, 2008 by the Board, which was 86 days past due.

### SECOND CAUSE TO REVOKE PROBATION

#### (Compliance with Probation Program and Quarterly Reporting Requirements)

15. At all times after the effective date of Respondent's probation, Condition 2 stated:

"Compliance with Probation Program and Quarterly Report Requirements - Respondent shall fully comply with terms and conditions of the probation established by the board and shall cooperate with the representatives of the board in its monitoring and investigation of the Respondent's compliance with the probation program.

"Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the board. The reports shall certify and document compliance with all the conditions of probation."

16. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 2. Specifically, Respondent failed to cooperate with the Board's representatives in the monitoring of his compliance with the terms and conditions of probation. In addition, Respondent failed to submit the following Quarterly Written Reports in a timely manner as required:

<u>Reporting Period</u>	<u>Due Date</u>	<u>Post Marked</u>	<u>Days Delinquent</u>
July - Sept. 2008	Oct. 7, 2008	November 10, 2008	34
October - Dec. 2008	Jan. 7, 2009	June 12, 2009	156
April - June 2009	July 7, 2009	July 8, 2009	1
July - Sept. 2009	Oct. 7, 2009	Oct. 9, 2009	2
January - March 2010	April 7, 2010	April 9, 2010	2
April - June 2010	July 7, 2010	July 9, 2010	2

Furthermore, Respondent failed to disclose on his Quarterly Written Reports that he was the subject of a complaint, review, or investigation from September 2009 through March 2010.

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1 THIRD CAUSE TO REVOKE PROBATION

2 (Completion of Educational Course(s))

3 17. At all times after the effective date of Respondent's probation, Condition 9 stated:

4 "Completion of Educational Course - Respondent, at his own expense, shall enroll in and  
5 successfully complete a course substantially related to the violation no later than the end of the  
6 first year of probation; or respondent shall be suspended from practice, until he has successfully  
7 completed the specified coursework.

8 "The coursework shall be in addition to that required for license renewal. The board shall  
9 notify respondent of the course content and number of contact hours required. Within 30 days of  
10 the Board's written notification of assigned coursework, Respondent shall submit a written plan  
11 to comply with this requirement. The Board shall approve such plan prior to enrollment in any  
12 course of study.

13 "Upon successful completion of the course, Respondent shall cause the instructor to furnish  
14 proof to the board within 30 days of course completion."

15 18. Respondent's probation is subject to revocation because he failed to comply with  
16 Probation Condition 9. Specifically, Respondent failed to submit a written plan to complete the  
17 assigned remedial education coursework relating to **Law and Ethics, Chemical**  
18 **Dependency/Substance Abuse and Child Abuse/Neglect** (30 hours each). Respondent was  
19 instructed to submit course information for approval via written correspondence dated June 26,  
20 2008, August 6, 2008 and October 28, 2008. A plan was ultimately submitted December 18,  
21 2008, which was 145 days past due.

22 Respondent was required to, and notified that all approved courses were to be completed  
23 within the first year of his probation on April 23, 2009. Respondent failed to complete all  
24 approved courses within the first year of his probation. He completed the course relating to **Child**  
25 **Abuse/Neglect** on June 11, 2009, which was 49 days past due.

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1 FOURTH CAUSE TO REVOKE PROBATION

2 (Cost Recovery Requirements)

3 19. At all times after the effective date of Respondent's probation, Condition 11 stated:  
4 "Cost Recovery Requirements - Pursuant to Business and Professions Code Section 125.3,  
5 respondent shall make timely payment of \$4,012.75 in accordance with Legal Conclusion 4 of  
6 this decision. Failure to make payments in accordance with any formal agreement entered into  
7 with the board or pursuant to any decision by the board shall be a considered a violation of  
8 probation.

9 "The board may conditionally renew or reinstate, for a maximum of one year, any license of  
10 any respondent who demonstrates financial hardship. Respondent shall enter into a formal  
11 agreement with the board to reimburse the unpaid costs within that one-year period.

12 "Except as provided above, the Board shall not renew or reinstate any license of the  
13 respondent who has failed to pay all the costs as directed in a decision."

14 20. Respondent's probation is subject to revocation because he failed to comply with  
15 Probation Condition 11. Specifically, Respondent failed to reimburse the Board \$4,012.75 for the  
16 costs of the investigation and enforcement in this matter. At his meeting with Board staff,  
17 Respondent agreed to a monthly payment of fifty-six (56) payments of \$71.00 each and a final  
18 payment of \$36.75 beginning July 2008. Respondent failed to adhere to the plan resulting in  
19 three (3) separate Demand for Payment Notices dated March 18, 2009, March 3, 2010, and  
20 August 5, 2010. His outstanding balance is \$2,231.75.

21 FIFTH CAUSE TO REVOKE PROBATION

22 (Chemical Dependency Support/Recovery Groups)

23 21. At all times after the effective date of Respondent's probation, Condition 12 stated:

24 "Chemical Dependency Support/Recovery Groups - Respondent shall continue attendance  
25 at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous,  
26 Nurse Support Group). Verified documentation of attendance shall be submitted by respondent  
27 with each quarterly report. Respondent shall continue attendance in such a group for the duration  
28 of probation."

22. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 12. Specifically, Respondent failed to attend and document his attendance at a chemical dependency support group as required. At his meeting with Board staff, Respondent was provided with attendance forms and directed to attend no less than two (2) meeting per week. Respondent failed to submit documentation for the period of January 1, 2009 through December 4, 2009.

## SIXTH CAUSE TO REVOKE PROBATION

(Submit Biological Fluid Samples)

23. At all times after the effective date of Respondent's probation, Condition 15 stated:

"Submit Biological Fluid Samples - Respondent shall immediately submit to biological fluid testing, at his cost, upon request by the board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the board and respondent's current employer."

24. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 15. Specifically, Respondent failed to enroll with a biological fluid testing (BFT) provider in a timely manner to verify his abstinence from the personal use of alcoholic beverages and controlled substances. At his meeting with Board staff and via correspondence dated June 26, 2008, Respondent was directed to submit the name of a BFT provider, meeting the Board's criteria, no later than July 26, 2008. Respondent failed to do so. Respondent was again directed to do so via correspondence dated August 6, 2008, October 28, 2008, and December 9, 2008. Respondent ultimately enrolled with the Drug Testing Network, Inc. on January 5, 2009, which was 194 days after first being directed to do so.

## PRA YER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision;

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## **Exhibit A**

### **Decision and Order**

**Board of Vocational Nursing and Psychiatric Technicians Case No. PT-2005-54**

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BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. PT-2005-54

DERRICK GLENN BRACY  
355 Parkview Terrace #K5  
Vallejo, CA 94590

OAH No. 2007100948

Psychiatric Technician License  
No. PT 26103

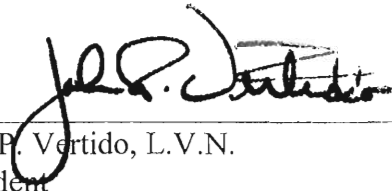
Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the Final Decision in the above entitled matter.

This Decision shall become effective on April 24, 2008.

IT IS SO ORDERED this 25<sup>TH</sup> day of March, 2008.

  
\_\_\_\_\_  
John P. Vertido, L.V.N.  
President

BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DERRICK BRACY  
a.k.a. DERRICK GLENN BRACY

Psychiatric Technician License No. PT  
26103.

Respondent.

Case No. PT-2005-54

OAH No. 2007100948

**PROPOSED DECISION**

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Napa, California, on December 17, 2007.

Complainant Teresa Bello-Jones, J.D., M.S.N., R.N., Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, was represented by Carol S. Romeo, Deputy Attorney General.

Respondent Derrick Bracy represented himself.

The matter was submitted for decision on December 17, 2007.

**FACTUAL FINDINGS**

1. On November 2, 1988, the Board of Vocational Nursing and Psychiatric Technicians issued Psychiatric Technician License Number PT 26103 to respondent Derrick Glenn Bracy. The license has been renewed through June 30, 2009.
2. On May 5, 2005, respondent was convicted, on his plea of guilty, of a misdemeanor violation of Penal Code section 311.6 (engaging in obscene live conduct). This is a crime that is substantially related to the qualifications, functions and duties of a psychiatric technician because to a substantial degree it evidences a potential unfitness to practice. (Cal. Code Regs., tit. 16, § 2578.)
3. Upon conviction, imposition of sentence was suspended and respondent was placed on probation for three years on conditions that included staying away from the victim.

serving 20 days in a work program, paying fines and fees, attending an alcohol treatment program as ordered by the probation department, attending AA meetings at least twice a week, and attending sex offender counseling as ordered by the probation department. Respondent was not required to register as a sex offender.

4. The incident that resulted in respondent's conviction occurred on February 5, 2005. On that date, respondent was home alone with his 17-year-old stepdaughter. He asked his stepdaughter to bring a telephone to him in his bedroom. When his stepdaughter walked in the room she saw respondent sitting naked on the edge of the bed watching television and holding his erect penis in his hand. Respondent's stepdaughter told her mother, who then called the police. Respondent's stepdaughter told the investigating officer that this was not the first time that respondent had exposed himself to her, but that she had never said anything about it before. Respondent never asked her for sexual favors. Respondent denied to the officer that he had been sitting on the bed naked. He said that his stepdaughter had seen him naked one or two times before, but these had been accidental.

5. In November 2005, respondent sent a letter to the board explaining the circumstances that resulted in his conviction. He wrote, "on the evening of 02/05/05 [I] drank a 1/2 pint of Seagrams' gin. I was at my home in Napa, CA. I was looking at [an] adult magazine in my bed room. The door of the room was partially open. My 17 yr. old step daughter walked near the door of the bedroom. I was exposed. I was nude."

6. Respondent takes full responsibility for his crime. At the hearing, he exhibited sincere remorse for his actions. He was candid and forthcoming in his testimony, including admitting he had lied to the investigating police officer, admitting that on February 5, 2005, he had called his stepdaughter to his room (she was not just "walk[ing] near the door"), and admitting that he had exposed himself to his stepdaughter on a number of occasions, including a few times when he had an erection.

7. Respondent has fully complied with the terms of his criminal probation. He completed his 20 days in a work program working in the kitchen of the Yountville Veterans Home. He paid all the fines, which totaled \$2,600. He attended the Early Intervention Program of the Kaiser Permanente Chemical Dependency Recovery Program, which consisted of eight one-hour educational sessions and eight 75-minute support group sessions. He has been attending AA meetings one to three times per week for the past two and one-half years. He has been participating in a sexual offender program offered by Sexual Abuse Services (SAS) of the North Bay for more than two years. He initially completed two months of individual therapy with psychologist Richard Cohen, and has subsequently participated in group sessions facilitated by Dr. Cohen at SAS for the past 22 months. He continues in that program, which is described in its literature as being "based on a cognitive/behavioral – relapse prevention model."

8. Respondent moved out of the house he shared with his wife and stepdaughter on the night of the incident that resulted in his conviction. He and his wife divorced six or seven months after that incident. The only contact he has had with his stepdaughter since

February 5, 2005, was in September 2007 during a small claims court proceeding in which his ex-wife and stepdaughter sought from respondent "mental damages." Respondent testified that judgment was entered against him, awarding the two women \$7,500 each. He is in the process of paying that judgment.

9. Respondent has lived in Vallejo since the night he moved out of his home in Napa in February 2005. He has resided with his 17-year-old son from another union, for whom he provides support.

10. Respondent was candid in describing his efforts to remain sober. Since his conviction respondent's longest period of sobriety has been 160 days. As of the date of the hearing, he had been sober for 30 days. He had broken his sobriety a month or so earlier, "to relieve stress" – his son was a witness to a murder and had to move out of Vallejo.

11. Respondent has been employed as a psychiatric technician for 19 years. He works in Program IV at Napa State Hospital. This is a 36-bed unit for adult male conservatees with chronic, long-term mental illness. He is responsible for patient care and safety. Respondent has told one of his supervisors about his conviction. The supervisor was "supportive and encouraging."

12. The board has incurred legal fees in the prosecution of this matter in the amount of \$4,012.75. These costs, representing 23 hours of attorney services and 3.75 hours of legal assistant services, are found to be reasonable.

## LEGAL CONCLUSIONS

1. Business and Professions Code sections 490 and 4521, subdivision (f), provide that the board may suspend or revoke a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions and duties of a psychiatric technician. Respondent is subject to discipline under these sections by reason of the conviction set forth in Finding 2.

2. In California Code of Regulations, title 16, section 2579.1, the board has adopted criteria to be considered when evaluating the rehabilitation of a licensee convicted of a crime. Those criteria include the nature and severity of the offense, the total criminal record, the time elapsed since the offense, whether the licensee has complied with conditions of probation, and any other evidence of rehabilitation submitted by the licensee.

3. The incident that resulted in respondent's conviction occurred almost three years ago. There is no indication he has any other criminal record. Respondent has successfully complied with all probationary terms, including staying away from the victim, performing 20 days of work service, paying fines and fees, and attending an alcohol treatment program, AA meetings, and a sex offender counseling program. While respondent has had some trouble maintaining his sobriety, it is clear he is serious about his efforts in that regard. Respondent was clearly chastened by the February 5, 2005 incident and his resulting

conviction. It is evidence of his rehabilitation that he was candid and forthcoming in his testimony at the hearing, including testifying about matters that did not paint him in a flattering light. Respondent has successfully worked for many years as a psychiatric technician and is currently working in an adult male unit. While there is generally no indication respondent is likely to repeat the conduct that resulted in his conviction, one can almost certainly say that behavior would not be repeated in his current job environment.

Considering all this, it is determined it would not be against the public interest to allow respondent to retain his psychiatric technician license upon the terms and conditions set forth below. In view of the programs respondent has participated in since his conviction, it is determined that it is not necessary to impose upon him the requirements to undergo physical and psychological evaluations, to undergo psychotherapy, or to participate in a substance abuse rehabilitation program (other than those programs required by his criminal probation). It is required, however, that respondent continue to attend AA meetings (or meetings of another chemical dependency support group), that he remain abstinent from alcohol and controlled substances, and that he submit to biological fluid testing.

4. Business and Professions Code section 125.3 provides that a licensee found to have violated the licensing law may be ordered to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Pursuant to that section, cause exists to order respondent to reimburse the board the sum of \$4,012.75. Respondent shall be permitted to pay this sum through monthly, semi-annual or annual payments, as determined by the board or its designee. Respondent shall have the entire probationary period in which to complete payments.

#### ORDER

Psychiatric Technician License Number PT 26103 issued to respondent Derrick Glenn Bracy is revoked; provided, however, that the revocation is stayed and respondent is placed on probation to the board for five years upon the following terms and conditions:

1. Obey All Laws – Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the board within five days of occurrence. To ensure compliance with this term, respondent shall submit two completed fingerprint cards and the applicable fingerprint processing fees to the board within 30 days of the effective date of the decision, unless the board determines that fingerprint cards were already submitted by respondent as part of his licensure application process effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph of himself within 30 days of the effective date of the decision.
2. Compliance With Probation Program and Quarterly Report Requirements – Respondent shall fully comply with terms and conditions of the probation established by the board and shall cooperate with the representatives of the

board in its monitoring and investigation of respondent's compliance with the probation program.

Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the board. The reports shall certify and document compliance with all the conditions of probation.

3. Notification of Address and Telephone Number Change(s) – Respondent shall notify the board, in writing, within five days of a change of residence or mailing address, of his new address and any change in his work and/or home telephone numbers.
4. Notification of Residency or Practice Out of State – Respondent shall notify the board, in writing, within five days, if he leaves California to reside or practice in another state.

Respondent shall notify the board, in writing, within five days, upon his return to California.

The period of probation shall not run during the time respondent is residing or practicing outside California.

5. Notification to Employer(s) – When currently employed or applying for employment in any capacity in any health care profession, respondent shall notify his employer of the probationary status of his license. This notification to respondent's current health care employer shall occur no later than the effective date of this decision. Respondent shall notify any prospective health care employer of his probationary status with the board prior to accepting such employment. This notification shall be by providing the employer or prospective employer with a copy of the board's accusation and this decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit quarterly reports to the board. The reports shall be on a form provided by the board, and shall include a performance evaluation and such other information as may be required by the board.

Respondent shall notify the board, in writing, within five days of any change in employment status. Respondent shall notify the board, in writing, if he is

terminated from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination.

6. Interviews/Meetings with Board Representative(s) – Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the board, or its designated representatives.
7. Employment Requirement and Limitations – During probation, respondent shall work in his licensed capacity in the State of California. This practice shall consist of no less than six continuous months and of no less than 20 hours per week.

While on probation, respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a board-approved continuing education course except as approved, in writing, by the board. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the board.

8. Supervision Requirements – Respondent shall obtain prior approval from the board, before commencing any employment, regarding the level of supervision provided to respondent while employed as a licensed vocational nurse or psychiatric technician.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the board.

9. Completion of Educational Course – Respondent, at his own expense, shall enroll in and successfully complete a course substantially related to the violation no later than the end of the first year of probation; or respondent shall be suspended from practice, until he has successfully completed the specified coursework.

The coursework shall be in addition to that required for license renewal. The board shall notify respondent of the course content and number of contact hours required. Within 30 days of the board's written notification of assigned coursework, respondent shall submit a written plan to comply with this requirement. The board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, respondent shall cause the instructor to furnish proof to the board within 30 days of course completion.

10. Maintenance of Valid License – Respondent shall, at all times while on probation, maintain an active current license with the board, including any period during which suspension or probation is tolled.

Should respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's license shall be subject to any and all terms of this probation not previously satisfied.

11. Cost Recovery Requirements – Pursuant to Business and Professions Code Section 125.3, respondent shall make timely payment of \$4,012.75 in accordance with Legal Conclusion 4 of this decision. Failure to make payments in accordance with any formal agreement entered into with the board or pursuant to any decision by the board shall be considered a violation of probation.


The board may conditionally renew or reinstate, for a maximum of one year, the license of any respondent who demonstrates financial hardship. Respondent shall enter into a formal agreement with the board to reimburse the unpaid costs within that one-year period.

Except as provided above, the board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a decision.

12. Chemical Dependency Support Recovery Groups – Respondent shall continue attendance at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation.
13. Abstain from Controlled Substances – Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.
14. Abstain from Use of Alcohol – Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

15. Submit Biological Fluid Samples – Respondent shall immediately submit to biological fluid testing, at his cost, upon request by the board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the board and respondent's current employer.
16. Violation of Probation – If respondent violates the conditions of his probation, the board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board. Upon successful completion of probation, respondent's license will be fully restored.

DATED: January 11, 2008

  
MICHAEL C. COHN  
Administrative Law Judge  
Office of Administrative Hearings

**Exhibit A**

**Accusation No. PT-2005-54**

**FILED**

MAY 18 2007

**Board of Vocational Nursing  
and Psychiatric Technicians**

EDMUND G. BROWN JR., Attorney General  
of the State of California  
WILBERT BENNETT  
Supervising Deputy Attorney General  
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Attorneys for Complainant

**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2005-54

DERRICK BRACY  
A.K.A. DERRICK GLENN BRACY  
355 Parkview Terrace, #J8  
Vallejo, California 94590

**ACCUSATION**

Psychiatric Technician License No. PT 26103

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians.
2. On or about November 2, 1988, the Board of Vocational Nursing and Psychiatric Technicians issued Psychiatric Technician License Number PT 26103 to Derrick Bracy, also known as Derrick Glenn Bracy (Respondent). The Psychiatric Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2007, unless renewed.

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8. Section 125.3 of the Code provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### FIRST CAUSE FOR DISCIPLINE

**(Criminal Conviction)**

9. Respondent is subject to discipline under Sections 4521(f) and 490 of the Code in that he was convicted of a crime substantially related to the qualifications, functions or duties of a psychiatric technician in that on or about May 5, 2005, in the Superior Court of the State of California, County of Napa, Case No. CR120734, entitled *The People of the State of California vs. Derrick Glenn Bracy*, Respondent was convicted on his plea of no contest of violating Section 311.6 of the Penal Code, (participate/etc. in obscene live public conduct), a misdemeanor. Pursuant to said conviction, the imposition of sentence was suspended and Respondent was granted Formal Probation for 3 years upon terms, which included, but were not limited to, the following:

- a. Serve 20 days on County Work Program.
- b. Attend sex offender counseling as ordered by Probation officer.
- c. Immediately enroll in and successfully complete alcohol and drug problem assessment program.
- d. Submit his person, residence, vehicle and property to search and seizure by a probation officer, or any law enforcement officer, at any time of the day or night, with or without a warrant, and with or without probable cause.
- e. Obey all laws.
- g. Stay away from the victim.
- h. Do not annoy, harass, or molest victim.

10. The factual circumstances surrounding this conviction are as follows:

On or about February 5, 2005, in Napa, California, Respondent exposed his erect penis to the seventeen year old female victim after asking her to bring him the phone from the living room

1 into his bedroom where he was seated. When the female victim, M. O.,<sup>1</sup> brought the telephone  
2 into Respondent's bedroom, she saw him sitting naked on his bed and holding his erect penis in  
3 his hand. At this time, the female teenager, M. O., was living with Respondent and his wife.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
6 alleged, and that following the hearing, the Board issue a decision:

- 7 1. Revoking or suspending Psychiatric Technician License Number PT  
8 26103, issued to DERRICK BRACY, also known as DERRICK GLENN BRACY (Respondent);  
9 2. Ordering Respondent to pay the Board the reasonable costs of the  
10 investigation and enforcement of this case, pursuant to Business and Professions Code section  
11 125.3; and  
12 3. Taking such other and further action as deemed necessary and proper.

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14 DATED: May 18, 2007

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17 TERESA BELLO-JONES, I.D., M.S.N., R.N.  
18 Executive Officer  
19 Board of Vocational Nursing and Psychiatric Technicians  
20 State of California  
21 Complainant

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24 03597110-SF2007400924  
25 CSR: 04.23.07

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28 1. The female victim is referred to by initials only in order to preserve her confidentiality.